

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KERRY INGREDIENTS &  
FLAVOURS LIMITED,

Plaintiff,

– *against* –

ECT TRANSPORT LTD., AGILITY  
LOGISTICS (SHAGHAI) LTD, and  
AGILITY LOGISTICS CORP.,

Defendants.

**ORDER**

17 Civ. 8438 (ER)

RAMOS, D.J.:

Plaintiff filed the instant action on November 1, 2017. Doc. 1. No activity has taken place since then. On April 6, 2020, the Court ordered Plaintiff to show good cause by May 1, 2020 for why service in this action was not completed within 90 days. Doc. 2. More than three months have passed without a response. For the below reasons, the Court dismisses Plaintiff’s action for failure to execute service under Federal Rule of Civil Procedure 4(m).

“If a defendant is not served within 90 days after the complaint is filed, the court — on motion or on its own after notice to the plaintiff — *must* dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m) (emphasis added).

Given that over two years have passed since the filing of the complaint in this action, and given that Plaintiff has failed to respond to the Court’s warning of the consequences of failure to serve or provide good cause for the lack of service, the Court

DISMISSES Plaintiff's action without prejudice. The Clerk of Court is respectfully directed to terminate any pending motions and to close the case.

It is SO ORDERED.

Dated: August 31, 2020  
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written above a horizontal line.

---

EDGARDO RAMOS, U.S.D.J.